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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

TIMOTHY MCCOY, an individual;
 KENNETH KENNEDY, an individual;
 ALISSA KING, an individual;

Case No.: 2:25-cv-361

Plaintiffs,

v.

COMPLAINT FOR

CITY OF LAS VEGAS, a political entity;
 Officer JORGE CALOCA, an individual;
 Officer M. FRAZIER an individual; Officer
 P. WOLDEHAWARIAT, an individual;
 Officer A. PALTAO, an individual; Officer J.
 GALLEGOS, an individual;

- 1) Violation of Constitutional Rights
 42 U.S.C. §1983**
- 2) Monell Claim/Violation of
 Constitutional Rights against
 CITY OF LAS VEGAS**
- 3) Assault and Battery**
- 4) Intentional Infliction of Emotional
 Distress**

Defendants.

COMES NOW Plaintiffs, TIMOTHY MCCOY, KENNETH KENNEDY, AND ALISSA KING, by and through their attorney, George E. Robinson of Kerr Simpson Attorneys at Law, and for his cause of action against each of the Defendants, alleges as follows:

PARTIES

1. At all relevant times mentioned herein, Plaintiff TIMOTHY MCCOY, was and is a resident of the state of Nevada.

2. At all relevant times mentioned herein, Plaintiff KENNETH KENNEDY, was and is a resident of the state of Nevada.

1 3. At all relevant times mentioned herein, Plaintiff ALISSA KING, was and is a
2 resident of the state of Nevada

3 4. Defendant, CITY OF LAS VEGAS is a political entity formed and operated
4 pursuant to the Nevada Revised Statutes and at all times relevant herein.

5 5. Defendant CITY OF LAS VEGAS through its Division of Public Safety (“DPS”)
6 employed Defendant Officers listed below.

7 6. Defendant, Officer J. CALOCA, is and was at all times relevant to this Complaint,
8 a citizen of the United States of America, and a resident of the State of Nevada.

9 7. Defendant, Officer M. FRAZIER, is and was at all times relevant to this Complaint,
10 a citizen of the United States of America, and a resident of the State of Nevada.

11 8. Defendant, Officer P. WOLDEHAWARIAT, is and was at all times relevant to this
12 Complaint, a citizen of the United States of America, and a resident of the State of Nevada.

13 9. Defendant, Officer A. PALTAO, is and was at all times relevant to this Complaint,
14 a citizen of the United States of America, and a resident of the State of Nevada.

15 10. Defendant, Officer J. GALLEGOS, (hereinafter referred to as “Defendant Green”),
16 is and was at all times relevant to this Complaint, a citizen of the United States of America, and a
17 resident of the State of Nevada.

18 11. Unknown Officers are unknown to Plaintiffs, who, therefore, sue said Defendants
19 by such fictitious names. Plaintiffs allege that each named Defendant and each Defendant herein
20 designated as a Named Unknown Officer is negligent, willfully, maliciously, contractually,
21 vicariously or otherwise legally responsible for the events and happening herein referred to and
22 proximately caused injury and damages to Plaintiffs herein alleged. Plaintiffs will ask leave of this
23 court to insert the true names and capacities of such Defendants when the same have been
24 ascertained, and will further ask leave to join said Defendants in these proceedings.
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12. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator, and/or alter ego of the remaining Defendants, and in doing the things herein alleged, was acting within the course and scope of that relationship.

13. Plaintiffs are further informed and believe, and thereon allege, that each of the Defendants herein gave consent, aid, and assistance to each of the remaining Defendants, and ratified and/or authorized the acts or omissions of each Defendant as alleged herein, except as may be hereinafter otherwise specifically alleged. At all material times, each Defendant was jointly engaged in tortious activity, resulting in the deprivation of Plaintiffs' constitutional rights and other harm.

14. The acts and omissions of all Defendants as set forth herein were at all material times pursuant to the actual customs, policies, practices and procedures of CITY OF LAS VEGAS.

15. At all material times, each Defendant acted under color of the laws, statutes, ordinances, and regulations of the State of Nevada.

FACTS COMMON TO ALL CAUSES OF ACTION

16. All of the Plaintiffs are African American, and moved from the state of Ohio to Las Vegas, Nevada.

17. MCOY and KING are siblings.

18. KING and KENNEDY were dating at that time.

19. The Plaintiffs have family in law enforcement and the military including MCCOY and KING's aunt who was the chief of police in Cleveland, and they have always respected law enforcement.

20. The officer parties in this case are all employed by the City of Las Vegas, Department of Public Safety ("DPS") as law enforcement officers.

21. Upon information and belief, Officer Caloca and other officers involved in this matter have had a number of complaints filed against them for excessive force and/or other misconduct in their discharge of their duties as law enforcement officers.

22. On November 11, 2023, at around 9 p.m., Plaintiffs decided to drive to the Fremont Street Experience to have dinner at a restaurant and walk around.

23. Pursuant to the report he prepared regarding this incident, at this same time, Caloca was operating as a marked patrol unit around the Fremont Street Experience at 4th St. and Fremont.

24. While conducting a person stop, Caloca noticed a black Dodge Durango (“the Durango”) traveling northbound on 4th Street, and the driver “used his right hand to make gestures as if he was holding a firearm in a threatening manner” and simulated shooting Caloca with his hand.

25. The black Dodge Durango entered the Neonopolis parking garage.

26. Close behind the Durango, the Plaintiffs were driving in a gray Hyundai and entered the same parking garage.

27. Pursuant to surveillance video, the occupants of the Durango are seen going up the elevator to the ground floor, including a black male adult with a bright colored sweater that Caloca had seen making the gun hand gesture.

28. Plaintiffs got in the same elevator shortly after and when up to the ground level from the parking structure.

29. When Plaintiffs exited the elevator on the ground floor, there was a group of DPS officers waiting for them.

30. DPS officers did not stop the black male adult in the colorful sweater who had actually made the hand gesture, but they stopped Plaintiffs.

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1 31. Mistakenly, DPS Officers began aggressively questioning Plaintiffs about the hand
2 gestures that they didn't make as the black male adult that made the hand gestures had come out
3 of the elevator shortly before.

4 32. Plaintiffs told the officers that they did not make any hand gestures and didn't know
5 anything about it.

6 33. Plaintiffs repeatedly asked what kind of car the people doing the hand gestures were
7 in, in trying to assist the officers identify the culprits.

8 34. DPS Officers continued to aggressively question Plaintiffs about the hand gestures
9 that they were clueless about.

10 35. After speaking with DPS Officers, MCCOY walked away as he was watching a
11 football game on his phone thinking that the interaction was over.

12 36. As he walked away, numerous DPS Officers tackled MCCOY from behind,
13 violently slammed him on the concrete, ripped out his hair, drew their firearms and tasers on him,
14 put a knee in his back, and cuffed him.

15 37. KING and KENNEDY were shocked and extremely upset that MCCOY was
16 getting arrested as they had done nothing wrong.

17 38. After this excessive use of force on an innocent man, DPS Officers paraded
18 MCCOY in handcuffs by hundreds of onlookers on Fremont Street.

19 39. KING and KENNEDY followed, understandably very upset at the situation, yelling
20 at officers because they had wrongly battered and detained MCCOY.

21 40. KING recorded the incident on her phone.

22 41. DPS Officers brought MCCOY to Las Vegas Blvd. where the police car was parked
23 and made MCCOY stand in front of the car as hundreds of onlookers watched.

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1 42. KING and KENNEDY attempted to approach MCCOY as he stood by the police
2 car to ask him about his condition after being battered and wrongly detained by the officers.

3 43. DPS Officers would not allow KING and KENNEDY to get close to MCCOY.

4 44. Another friend of theirs, a white female, who was supposed to meet with KING,
5 KENNEDY, and MCCOY at the Fremont Street Experience, was allowed to walk right up to
6 MCCOY and speak with him.

7 45. KING and KENNEDY stayed outside the “perimeter” guarded by the DPS Officers
8 while the improper arrest and detention of MCCOY was taking place.

9 46. While outside the perimeter, KENNEDY was filming the situation.

10 47. For no reason, numerous DPS Officers tackled KENNEDY, violently slammed him
11 on the concrete, ripped out his hair, put a knee in his back and cuffed him.

12 48. KENNEDY was arrested and taken to the Clark County Detention Center and
13 imprisoned based on the false allegations of the DPS Officers.

14 49. In his Police Report, Officer JORGE CALOCA makes a number of false statements
15 about the Plaintiffs in order to justify the DPS Officers’ illegal behavior.

16 50. Upon information and belief, these false statements were made in order to convince
17 the Las Vegas City Attorney’s Office and the Clark County District Attorney’s Office to file
18 charges against the Plaintiffs.

19 51. On November 11, 2023, a Criminal Citation was improperly filed against MCCOY
20 in the City of Las Vegas Municipal Court for Obstructing/False Info to Police Officer.

21 52. On December 8, 2023, a Criminal Complaint was improperly filed in the Las Vegas
22 Justice Court against KENNETH KENNEDY for Battery on a Police Officer.

23 53. Plaintiffs had to retain counsel to defend against the charges.

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1 54. The Complaint in the Las Vegas Justice Court against KENNEDY was dismissed
2 on or about July 17, 2024, after prosecutors properly realized that the charge was bogus.

3 55. The Complaint in the Las Vegas Municipal Court was dismissed on or about
4 September 12, 2024, after prosecutors properly realized that the charge was bogus.

5 **FIRST CLAIM FOR RELIEF**
6 (Violation of Constitutional Rights 42 U.S.C. §1983)

7 56. Plaintiffs incorporate herein by reference the allegations contained above as though
8 fully set forth herein. The Officer Defendants at all times herein were action under the color of law
9 because each was action as a uniformed police officer and acting pursuant to that authority.

10 57. The acts by The Officer Defendants, violated the Plaintiffs' right to be free from
11 unreasonable force and unlawful arrest, in violation of the Fourth Amendment, because each
12 Defendants used excessive force upon Plaintiffs by punching them, striking them, throwing them
13 to the ground, pulling out their hair, etc. Additionally, Defendants lacked probable cause to arrest
14 Plaintiffs.

15 58. As a direct and proximate result of the acts of The Officer Defendants, Plaintiffs
16 endured pain and further mental suffering, and he was deprived of his constitutional rights all in
17 excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

18 59. Plaintiffs are entitled to compensatory and exemplary damages resulting from the
19 violation of the aforementioned rights under 42 U.S.C. § 1983 all in excess of SEVENTY-FIVE
20 THOUSAND DOLLARS (\$75,000.00), because the acts of The Officer Defendants, were done
21 maliciously and with conscious and reckless disregard for whether the rights and safety of the
22 Plaintiffs and others would be violated by their acts and/or omissions.

23 60. Plaintiffs have been forced to pursue this action in search of justice and to enforce
24 the provisions of 42 U.S.C. § 1983 and is therefore entitled to be awarded reasonable attorney's
25 fees and costs.

1 fees pursuant to 41 U.S.C. § 1988 in excess of SEVENTY-FIVE THOUSAND DOLLARS
2 (\$75,000.00).

3 **SECOND CLAIM FOR RELIEF**

4 (Monell Claim/Violation of Constitutional Rights against CITY OF LAS VEGAS)

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6 61. Plaintiffs incorporate herein by reference the allegations contained above as though
7 fully set forth herein.

8 62. The unconstitutional actions and/or omissions of the individual Defendants, on
9 information and belief, were pursuant to the following customs, policies, practices, and/or
10 procedures of the Las Vegas Metropolitan Police Department, stated in the alternative, which were
11 directed, encouraged, allowed, and/or ratified by policy-making officers of the Las Vegas
12 Metropolitan Police Department:

- 13 a. To use or tolerate the use of excessive and/or unjustified force;
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15 b. To fail to use appropriate and generally accepted law enforcement procedures in
16 handling citizens;
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18 c. To use or tolerate inadequate, deficient, and improper procedures for handling,
19 investigating, and reviewing complaints of officer misconduct.
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21 d. Policy of failing to discipline poorly performing officers;
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23 e. Tolerating recurring, documented instances of violent and often fatal treatment of
24 people who come in contact with the police, through both the intentional use of deadly
25 force, excessive force and/or through negligent actions;
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27 f. Failing to maintain a process for identifying and deterring unconstitutional conduct;
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g. Failing to maintain a process for receiving, handling, adjudicating, and announcing
the disposition of complaints alleging misconduct or violation of rules, or the excessive use
of force;

h. Failing to have a complete set of modern and meaningful policies, practices, or training procedures that effectively prevent the excessive use of force;

i. Being deliberately indifferent to the Constitutional rights of persons with whom the police come into contact;

j. Failing to correct lawsuits patterns of misbehavior, which have been revealed, and citizen complaints reveal continuing as if nothing has been corrected in response to prior lawsuits or complaints.

k. To cover-up violations of constitutional rights by allowing, tolerating, and/or encouraging police officers to: fail to file complete and accurate police reports; file false police reports; make false statements, by withholding and/or concealing material information;

l. To allow, tolerate, and/or encourage a “code of silence” among law enforcement officers and police department personnel, whereby an officer or member of the department does not provide adverse information against a fellow officer or member of the department;

m. To allow, tolerate, and/or encourage a practice whereby an officer or member of the department does not provide adverse information against a Sergeant or supervisory member of the department;

63. The unconstitutional actions of the individual Defendants, as described above, were approved, tolerated, and/or ratified by policy-making officials of CITY OF LAS VEGAS. Plaintiffs are informed and believe, and thereupon alleges, the details of this incident have been revealed to the authorized policy makers within CITY OF LAS VEGAS, and that such policy makers have direct knowledge of the fact that the punching and beating of the Plaintiffs was not justified but rather represented an unconstitutional display of unreasonable and excessive force. Notwithstanding this knowledge, the authorized policy makers within CITY OF LAS VEGAS

1 have approved of the individual Officer Defendants' beating, false declaration, and arrest of
2 Plaintiffs. By so doing, the authorized policy makers within CITY OF LAS VEGAS have shown
3 affirmative agreement with the individual Defendant officers' actions, and have ratified the
4 unconstitutional acts of the individual Defendants.

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6 64. Defendant CITY OF LAS VEGAS's aforementioned customs, policies, practices,
7 and procedures, as well as Defendant CITY OF LAS VEGAS's unconstitutional approval,
8 ratification and toleration of the wrongful conduct of the individual Defendants, were a moving
9 force and/or proximate cause of the deprivations of Plaintiffs' clearly established and well-settled
10 constitutional rights in violation of 42 U.S.C. § 1983, as set forth above.

11 65. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
12 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
13 whether the rights and safety of the Plaintiffs and others would be violated by their acts and/or
14 omissions

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16 66. As a direct and proximate result of the unconstitutional actions, omissions, customs,
17 policies, practices, and procedures of Defendants CITY OF LAS VEGAS and The Officer
18 Defendants, Plaintiffs sustained serious and permanent injuries and are entitled to damages,
19 penalties, costs and attorney fees as set forth herein, and punitive damages against Defendants
20 CITY OF LAS VEGAS and The Officer Defendants in their individual capacities in a sum in
21 excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

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23 **THIRD CLAIM FOR RELIEF**
24 (Assault and Battery)

25 67. Plaintiffs incorporate herein by reference the allegations contained above as though
26 fully set forth herein.

27 68. That all individual Defendants made intentional, unlawful, and harmful conduct
28 when each punched, tackled, ripped out the hair of, threw to the ground and choked the Plaintiffs.

69. That Plaintiffs apprehended each of the individual Defendants' harmful contact immediately prior to each time such unlawful contact was made with the body of Plaintiffs.

70. That as a direct and proximate cause of the assault and battery described above, the Plaintiffs have suffered physical and emotional injuries, pain and suffering, all to his damage and each of them in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and has also incurred medical treatment all to his damage in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

71. The acts, conduct and behavior of Defendants, and each of them, were performed knowingly and intentionally, oppressively and maliciously, by reason of which Plaintiffs are entitled to punitive damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) from each Defendant.

FOURTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

72. Plaintiffs incorporate herein by reference the allegations contained above as though fully set forth herein.

73. Plaintiffs were legally and lawfully upon The Fremont Street Experience premises.

74. That Plaintiffs MCCOY and KENNEDY were assaulted without provocation or reasonable basis when Plaintiffs were punched, tackled, ripped out the hair of, threw to the ground and choked by the Officer Defendants.

75. The Officer Defendants' use of force was extreme and outrageous.

76. This use of force caused Plaintiffs to suffer emotional distress and was done intentionally and maliciously.

77. As a direct and proximate result of the Officer Defendants' intentional infliction of emotional distress upon Plaintiffs, they have incurred special and general damages in an amount

1 in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and is further entitled to
2 punitive damages.

3 78. That as a direct result of the acts and omissions of the Defendants, and each of
4 them, Plaintiffs were caused to suffer physical and mental injury, pain and suffering, and severe
5 emotional distress and other related costs, medical, and lost wages, including but not limited to
6 attorney fees in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).
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8 79. That the acts, conduct and behavior of Defendants, and each of them, were
9 performed intentionally and recklessly, and actions taken by Defendants were extreme and
10 outrageous, causing Plaintiffs to suffer severe emotional distress, by reason of which Plaintiffs is
11 entitled to punitive damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS
12 (\$75,000.00) from each Defendant.
13

14 80. That as a result of these injuries, Plaintiffs have been required to engage in the
15 services of physicians and medical treatment and other persons to care and treat him, all to his
16 damage in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and will continue
17 to incur future medical expenses in excess of SEVENTY-FIVE THOUSAND DOLLARS
18 (\$75,000.00).
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20 81. The acts, conduct and behavior of Defendants, and each of them, were performed
21 knowingly and intentionally, oppressively and maliciously, by reason of which Plaintiffs are
22 entitled to punitive damages in a sum in an amount in excess of SEVENTY-FIVE THOUSAND
23 DOLLARS (\$75,000.00) from each Defendant.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows as to the Causes of Action where applicable as follows:

1. for compensatory damages, in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00);
2. for special damages for medical expenses in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00);
3. for punitive damages where applicable, and against all individual Defendants, in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00);
4. for costs of suit incurred herein;
5. for reasonable attorney fees and costs of suit, including interest at the highest allowable rate, pursuant to 41 U.S.C. § 1988;
6. and for such other and further relief as this Court deems just and proper.

Dated this 20th day of February, 2025.

KERR SIMPSON ATTORNEYS AT LAW

/s/ George E. Robinson

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